

## CLAIMS: THE CASE OF THE BRIG “MACEDONIAN”

*Convention signed at Santiago November 10, 1858*

*Senate advice and consent to ratification March 8, 1859*

*Ratified by the President of the United States August 4, 1859*

*Ratified by Chile October 6, 1859*

*Ratifications exchanged at Santiago October 15, 1859*

*Entered into force October 15, 1859*

*Proclaimed by the President of the United States December 22, 1859*

*Expired upon fulfillment of its terms*<sup>1</sup>

12 Stat. 1083; Treaty Series 41<sup>2</sup>

### CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF CHILE

*The Government of the United States of America and the Government of the Republic of Chile, desiring to settle amicably the claim made by the former upon the latter, for certain citizens of the United States of America, who claim to be the rightful owners of the silver in coin and in bars forcibly taken from the possession of Capt. Eliphalet Smith a citizen of the United States of America, in the valley of Sitana, in the territory of the former Vice Royalty of Peru, in the year 1821, by order of Lord Cochrane, at the time Vice Admiral of the Chilean Squadron:—have agreed, the former to name John Bigler, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, and the latter Don Geronimo Urmeneta, Minister of State in the Department of the Interior and of Foreign Relations, in the name and in behalf of their respective Governments to examine said claim and to agree upon terms of arrangement just and honorable to both Governments.*

The aforesaid Plenipotentiaries, after having exchanged their full powers, and found them in due and good form, sincerely desiring to preserve intact and strengthen the friendly relations which happily exist between their respective Governments, and to remove all cause of difference, which might weaken or change them, have agreed in the name of the Government which each represents, to submit to the arbitration of *His Majesty the King of Belgium*,

<sup>1</sup> Award rendered by King of Belgium May 15, 1863 (see Moore, *International Arbitrations*, vol. II, p. 1461).

<sup>2</sup> For a detailed study of this convention, see 8 Miller 117.

the pending question between them, respecting the legality or illegality of the above referred to capture of silver in coin and in bars, made on the ninth day of May 1821, by order of Lord Cochrane, Vice Admiral of the Chilean Squadron, in the valley of Sitana, in the territory of the former Vice Royalty of Peru, the proceeds of sales of merchandise imported into that country in the Brig *Macedonian* belonging to the merchant marine of the United States of America.

Therefore the above named Ministers agree to name *His Majesty the King of Belgium* as Arbiter, to decide with full powers and proceeding *ex æquo et bono*, on the following points:

*First*—Is, or is not, the claim which the Government of the United States of America, makes upon that of Chile, on account of the capture of the silver mentioned in the preamble of this Convention, just in whole or in part?

*Second*—If it be just in whole or in part, what amount is the Government of Chile to allow and pay to the Government of the United States of America, as indemnity for the capture?

*Third*—Is the Government of Chile in addition to the Capital, to allow interest thereon, and if so, at what rate and from what date is interest to be paid?

The contracting parties further agree that *His Majesty the King of Belgium* shall decide the foregoing questions upon the correspondence which has passed between the representatives of the two Governments at Washington and at Santiago and the documents and other proofs produced during the controversy on the subject of this capture, and upon a memorial or argument thereon to be presented by each.

Each party to furnish the Arbiter with a copy of the correspondence and documents above referred to, or so much thereof as it desires to present, as well as with its said memorial, within one year at furthest from the date at which they may respectively be notified of the acceptance of the Arbiter.

Each party to furnish the other with a list of the papers to be presented by it to the Arbiter, three months in advance of such presentation.

And if either party fail to present a copy of such papers, or its memorial, to the Arbiter, within the year aforesaid, the Arbiter may make his decision upon what shall have been submitted to him within that time.

The contracting parties further agree that the exception of prescription, raised in the course of the controversy, and which has been a subject of discussion between their respective Governments, shall not be considered by the Arbiter in his decision, since they agree to withdraw it and exclude it from the present question.

Each of the Governments represented by the contracting parties is authorized to ask and obtain the acceptance of the Arbiter and both promise and bind themselves in the most solemn manner to acquiesce in and comply with

his decision, nor at any time thereafter to raise any question directly or indirectly connected with the subject matter of this arbitration.

This Convention to be ratified by the Governments of the respective contracting parties, and the ratifications to be exchanged within twelve months from this date, or sooner, if possible, in the city of Santiago.

In testimony whereof, the contracting parties have signed and sealed this agreement in duplicate, in the English and Spanish languages, in Santiago the tenth day of the month of November in the year of our Lord, One thousand Eight hundred and fifty eight.

JOHN BIGLER [SEAL]  
*Envoy Extraordinary and Minister Plenipotentiary  
of the United States of America*

GERONIMO URMENETA [SEAL]  
*Plenipotenciario ad hoc*